consequences of a crime and it can hardly be said in this case that the flight was from the crime of breaking out of the asylum; rather it was from the confinement.

GARNISHMENT—NATURE OF ACTION.—The plaintiffs and the defendant corporation were claimants of a fund of $25,000 which had been paid into court. The fund was awarded and paid to the corporation. The capital stock of the defendant amounted to $20,000, all of which was paid up; its resources were $4,000 in property and $3,000 in cash. After the award of the fund the corporation paid $6,000 to creditors and the remaining $22,000 of the fund to the stockholders, all of whom except one were directors. Meanwhile the plaintiffs appealed from the decision of award and the judgment was reversed in favor of the plaintiffs. Execution was issued and returned unsatisfied. Thereupon the plaintiffs garnished the stockholders. *Held,* that garnishment would lie. *Smith et al.* v. *Gruber Lumber Co.* (Wash. 1914), 142 Pac. 493.

Two theories of the case are advanced in the decision: first, that the corporation was an involuntary trustee, that it paid the fund to the stockholders under a mistake of fact, and that it could, therefore, recover from them in assumpsit; second, that the directors wrongfully depleted the capital stock of the company, and that the corporation could recover the money in assumpsit, on the ground that "whenever a person has in his hands money equitably belonging to another, that other person may recover it in assumpsit for money had and received." In most jurisdictions garnishment would be held to lie only upon the first theory of the case, as garnishment is maintainable to enforce only legal, and not equitable, demands. ROOD, GARNISHMENT, 45-47. It has been held, however, in some states that garnishment is a proceeding of an equitable character in which equitable issues may be presented and tried as in a court of chancery. *Shaver Wagon & Carriage Co.* v. *Halsted,* 78 Iowa 730, 43 N. W. 623; *LaCrosse Nat'l Bank* v. *Wilson,* 74 Wis. 391, 43 N. W. 153; *Whitney-Holmes Organ Co.* v. *Petitt,* 34 Mo. App. 536; *Cowles* v. *Coe,* 21 Conn. 220; *Maher* v. *Brown,* 2 La. 492. When garnishment is conducted as an equitable proceeding no reason appears why equitable rights may not thereby be attached as well as legal debts. *Candee* v. *Penniman,* 32 Conn. 228; *Cox* v. *Russell,* 44 Ia. 556; *Burnham* v. *Doolittle,* 14 Neb. 214, 15 N. W. 606; *Root* v. *Davis,* 51 Ohio St. 29, 36 N. E. 669. The courts differ as to whether dividends illegally declared and paid can be recovered from the stockholders at law, in equity, or at all. *Lexington Life &c. Ins. Co.* v. *Page,* 17 B. Mon. (Ky.) 412, 446; *Main* v. *Mills,* 6 Biss. 98, Fed. Cas. 8974; *Davenport* v. *Lines,* 72 Conn. 118; *McDonald* v. *Williams,* 174 U. S. 397. The usual and proper action in a case of this kind is clearly a proceeding in equity. COOK, CORPORATIONS, § 549. Upon the second theory of the case it seems that garnishment should be maintained, by the better doctrine, only in those jurisdictions where garnishment is looked upon as an equitable proceeding.

HIGHWAYS—PROPER USE OF.—Where a queue formed in front of the doors of a theatre owned by the defendant and extended in front of the plaintiff's place of business three doors below, thereby obstructing free

access to and egress from the plaintiffs' premises, *held,* such user of highway is unreasonable and constitutes a nuisance which the plaintiff can restrain. *Lyon Sons & Co.* v. *Gulliver* [1914] I Ch. 631.

The right of the public in the highway consists in the privilege of passage. *Hickman* v. *Maisey,* [1901], 1 Q. B. 752; *Burr* v. *Stevens,* 90 Me. 500. Travelers may within reason, however, stop temporarily on the highway. *Smethurst* v. *Barton Square Independent Cong. Church,* 148 Mass. 261; but not unreasonably, or to such an extent as to interfere with other travelers or to prevent the free use of the highway. *Turner* v. *Holtzman,* 54 Md. 148; *Lippincott* v. *Lasher,* 44 N. J. Eq. 120. And a trader cannot make his shop-window so attractive as to bring crowds round it in such a way as to interfere with the people having the easiest and most direct and commodious access to the next shop. *Wagstaff* v *Edison Bell Phonograph Corp.,* 10 Times L. R. 80. Search reveals no American case upon facts similar to the principal case. The leading English case is that of *Barber* v. *Penley,* [1893] 2 Ch. 447, which holds that the lessee of a theatre is liable for obstruction to access to adjacent premises by reason of a queue extending from the theatre door in front of the adjacent premises. If the natural and probable result of what the defendants are doing will be the collection of a crowd, they can be restrained, and it is no answer that they do not wish to cause a crowd or that the crowd is orderly, or that it is the duty of the police to regulate it. *Barber* v. *Penley,* supra. American cases have held the following to be a reasonable use of the highway: moving of buildings, *Graves* v. *Shattuck,* 35 N. H. 257, 69 Am. Dec. 536; receiving or delivering goods from the store or warehouse, *People* v. *Cunningham,* 1 Denio (N. Y.) 524; temporarily depositing goods, fuel, and building materials, *Piolett* v. *Summers,* 106 Pa. St. 95. But a systematic and continued encroachment upon a highway although for the purpose of carrying on a lawful business is unjustifiable. *Busse* v. *Rogers,* 120 Wis. 443; *Callanan et al.* v. *Gilman,* 107 N. Y. 360.

INHERITANCE TAX—LIABILITY OF REMAINDERS TO INHERITANCE TAX.—The owner of bonds deposited them prior to the passage of the INHERITANCE TAX LAW, (§ 366, ch. 120, of the statutes of Illinois), under a trust agreement that the trustees should collect and pay the income thereof to him for life, at his death to pay the income to A for life, and upon her death to pay over the whole to B and C, *Held* that B and C took a vested remainder which was not subject to a tax and that A took a contingent remainder which was liable for the tax. (CARTWRIGHT, C. J., and DUNNE, J., *dissenting.*) *People* v. *Carpenter* (Ill. 1914), 106 N. E. 302.

The prevailing opinion as to the liability of A's interest is based on the theory that A takes a contingent estate which does not vest until after the death of the testator, and hence falls into that class of property designated in the statute as "Intended to take effect in possession or enjoyment at or after such death." In the opinion it is held that if there is a vested interest the property is not subject to the tax. The position taken by the majority of the court, that A takes a contingent remainder, seems to conflict with the